

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES--GENERAL

Case No. **5:23-cv-01727-JFW (DTB)**

Date: **December 19, 2025**

Title: **Sunil Bhasin v. City of San Bernardino, et al.**

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**DOCKET ENTRY**

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PRESENT:

**HON. DAVID T. BRISTOW, MAGISTRATE JUDGE**

Rachel Maurice  
Deputy Clerk

n/a  
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

None present

ATTORNEYS PRESENT FOR DEFENDANT(S):

None present

**PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE  
REGARDING LACK OF PROSECUTION**

On July 30, 2025, the Court granted in part and denied in part the San Bernardino Defendants' <sup>1</sup> Motion for Judgment of the Pleadings. (Docket No. 71). Plaintiff's claims in the First Amended Complaint against the San Bernardino Defendants were dismissed without prejudice and with leave to amend. Plaintiff was ordered, if he still desired to pursue this action against the San Bernardino Defendants, to file a Second Amended Complaint within 30 days of the Court's Order.

Plaintiff failed to file a Second Amended Complaint within the allotted time and on September 2, 2025, the San Bernardino Defendants filed a Motion to Dismiss pursuant to Fed.R.Civ.P. 41(b) on the ground that Plaintiff failed to file an amended complaint by August 29, 2025. (Docket No. 72). Based on Plaintiff's failure to file a Second Amended Complaint, the San Bernardino Defendants request that this Court dismiss the action with prejudice in its entirety. (Id. at 3).

On September 29, 2025, Plaintiff filed an Opposition to the Motion to Dismiss wherein he stated he believed his 30-day period would start on August 8, 2025, and at least 5 days from the signed order of July 30, 2025 (allowing for mail), and therefore due to be filed on or before September 8, 2025. (Opposition at 1-2). Plaintiff also stated that

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1 Reference to the San Bernardino Defendants shall refer to the City of San Bernardino; John Valdivia, elected Mayor of San Bernardino; San Bernardino Police Department; and Brian Harris, Captain Chief of San Bernardino Police Department.

he drafted and/or believed to have mailed an application to the Court for an extension of time to file an amended complaint. (Id. at 2). Plaintiff further stated that he is under the impression that he must now file a Motion for leave to file a late amended complaint. (Id. at 3).

On October 9, 2025, the San Bernardino Defendants filed a Reply to Plaintiff's Opposition. (Docket No. 75). On October 28, 2025, the San Bernardino Defendants filed a Notice of Plaintiff's Non-Compliance with Court Order advising that 90 days has passed, and Plaintiff has not filed an amended complaint. (Docket No. 76).

On October 30, 2025, the Court issued an Order wherein the Court advised the parties that the Court was aware that an amended complaint had not yet been filed on August 29, 2025, and in light of the filing of the Motion to Dismiss on the next business day, the Court ordered briefing on the motion, which is under submission. In the interim, Plaintiff was ORDERED to lodge his proposed Second Amended Complaint with the Court no later than November 10, 2025.

As Plaintiff failed to lodge his proposed Second Amended Complaint with the Court by the date ordered, on November 12, 2025, the San Bernardino Defendants filed a Notice of Plaintiff's Continued Non-Compliance with Court Order. (Docket No. 78).

On November 17, 2025,<sup>2</sup> Plaintiff filed an Opposition/Objection ("Opposition") to Defendants' November 12, 2025 Notice. (Docket No. 79). In his Opposition, Plaintiff stated that the Defendants have failed to stipulate to his request (Opposition at 1) and that he mailed a letter to defense counsel advising that he would be filing a Second Amended Complaint (Opposition at 2). Plaintiff further stated that he "believed" he had mailed an application for an extension of time<sup>3</sup> and he now needs to request an extension under Fed.R.Civ.P. 6(b). (Id.). Plaintiff also stated that he is under the impression that a motion must be filed for leave to file a late amended complaint. (Id. at 3). Plaintiff is incorrect. Pursuant to the Court's October 30, 2025 Order, Plaintiff was ORDERED to lodge his proposed Second Amended Complaint with the Court no later than November 10, 2025.

As Plaintiff failed to lodge his proposed Second Amended Complaint, on November 25, 2025, the Court issued an Order to Show re Lack of Prosecution ("OSC"). (Docket No. 80). Plaintiff was ORDERED to show cause, in writing, no later than December 10, 2025, why this action should not be dismissed, without prejudice, for failure to prosecute. On December 12, 2025, Plaintiff filed his Response to the OSC. (Docket No. 82). In his Declaration attached to the Response, Plaintiff states "I at no time received the Court's October 30, 2025 Order, to lodge the Plaintiff's Second Amended Complaint ('SAC') no later than November 10, 2025." (Declaration, ¶ 5).

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<sup>2</sup> Plaintiff signed the Opposition on November 6, 2025.

<sup>3</sup> Plaintiff is advised that the Court has not received any request for extension of time to file an amended complaint.

Plaintiff does not believe that there is a lack of prosecution and will again submit his motion(s) for relief and again request an extension due to extraordinary circumstance since defendants have refused to stipulate to an extension. (Response at 3). Plaintiff also attests that he has been awaiting the Court's decision and/or hope for an extension to file a Second Amended Complaint. (Response at 5).

On December 11, 2025, defendants filed a Response to Notice of Plaintiff's Response to Court's Order to Show Cause (Docket No. 81), wherein they dispute Plaintiff's allegation of not receiving the Court's October 30, 2025 Order, and had the Court inadvertently failed to serve such, Plaintiff still had knowledge of it and the 30 day deadline of August 29, 2025. The Court agrees.

The Court hereby DISCHARGES the OSC and issues the following order: Plaintiff is reminded that his Second Amended Complaint was originally due on or before August 29, 2025. (Docket No. 71). Further, Plaintiff was served with defendants' Notice of Plaintiff's Non-Compliance With Court Order (Docket No. 76), to which Plaintiff responded to on November 17, 2025 (Docket No. 79). Plaintiff has repeatedly provided statements in support of his failure to comply with Court orders and the lodging of a Second Amended Complaint. However, the Court is unpersuaded, as Plaintiff has responded to the Court's OSC and, therefore seemingly has the ability to lodge his Second Amended Complaint.

Accordingly, Plaintiff is once again ordered to show cause, in writing, no later than **January 16, 2026**, why this action should not be dismissed, without prejudice, for failure to prosecute.

This Order to Show Cause will be discharged upon the lodging of Plaintiff's proposed Second Amended Complaint. Plaintiff is forewarned that this will be the Court's last attempt at allowing Plaintiff to proceed with this action.

If Plaintiff no longer wishes to pursue this action, he may request a voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1). A notice of dismissal form is attached for Plaintiff's convenience.

**IT IS SO ORDERED.**